

REMARKS/ARGUMENTS

In response to the Restriction Requirement mailed January 10, 2007, Applicants elect, with traverse, Group II, claim 23 drawn to a method of identifying a compound that modulates cell cycle arrest. Applicants also elect the following species with traverse: Fanconi anemia group A protein (FANCA).

Applicants have amended the claims and direct the Examiner's attention to relevant passages in the specification to support the amendments. Claim 23 is amended to recite 95% identity to a reference FANCA amino acid sequence and to recite identification of a cell cycle modulator that has an effect on the FANCA polypeptide. New claims 36-44 are added and depend from claim 23. Support for these amendments is found throughout the specification, for example, at page 13, lines 26-28; page 24, lines 7-22; page 46, lines 8-32; and original claims 3-7, 16 and 23. These amendments add no new matter.

The foregoing election is made with traverse. Applicants request that Group I and Group II, both drawn to methods of identifying a compound that modulates cell cycle arrest, be examined together.

Applicants also assert that, at the very least, claim 1 is a genus claim as all method steps recited in claim 1 are found in claim 23. As such, upon allowance of a linking genus claim, the restriction requirement should be withdrawn with respect to the species claims. MPEP 809.03. Applicants further note that when the requirement for restriction is predicated upon the non-allowability of a generic linking claim, Applicants are entitled to retain in the case claims to the non-elected invention. If the generic linking claim is allowed, the Examiner must then examine non-elected claims to species falling within the genus. MPEP 809.04.

Finally, restriction of an application is discretionary. A restriction requirement is made to avoid placing an undue examination burden on the Examiner and the Office. Where claims can be examined together without undue burden, the Examiner must examine the claims on the merits even though they are directed to independent and distinct inventions. MPEP 803.01. Applicants respectfully submit that examining the claims of Group I and Group II

together (both drawn to methods of identifying a compound that modulates cell cycle arrest) would not place an undue burden on the Examiner. Applicants therefore respectfully request that the restriction requirement with respect to Group II and Group I be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,


Beth L. Kelly
Reg. No. 51,868

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 415-576-0200
Fax: 415-576-0300
Attachments
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